

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Najee M. Johnson,

Plaintiff,

v.

Case No. 1:16cv611

C/O M. Ervin, *et al.*,

Judge Michael R. Barrett

Defendants.

**ORDER**

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on June 17, 2016 (Doc. 4).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Accordingly, it is **ORDERED** that the Report and Recommendation (Doc. 4) of the Magistrate Judge is hereby **ADOPTED**. Plaintiff's claim shall proceed under 42 U.S.C. § 1983 for damages against defendant "M. Ervin" in his individual capacity based on his alleged use of excessive force against Plaintiff in an incident that occurred on April 10, 2016 at the Southern Ohio Corrections Facility. The Complaint (Doc. 3) is otherwise dismissed for failure to state a claim upon which relief may be granted by this Court. Defendants Greene, Mahlman and Erdos are also dismissed as parties to this action.

**IT IS SO ORDERED.**

s/Michael R. Barrett  
Michael R. Barrett  
United States District Judge